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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/571,874

04/11/2006

Johannes Jung

3602-PAT

6886

30084

7590

05/16/2007

DONN K. HARMS

PATENT & TRADEMARK LAW CENTER

SUITE 100

12702 VIA CORTINA

DEL MAR, CA 92014

EXAMINER

GANESAN, SUBA

ART UNIT

PAPER NUMBER

3738

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/571,874	<b>Applicant(s)</b> JUNG, JOHANNES	
	<b>Examiner</b> Suba Ganesan	<b>Art Unit</b> 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims **1-2, 4-8, 12** are rejected under 35 U.S.C. 102(e) as being anticipated by Duerig et al. (U.S. P.G. Pub. No.: 2002/0138135).

3. Mathis discloses a stent with a tubular wall with wall segments and flexible curved anchoring element **106a** that is integrally connected with at least two wall segments and bridges at least one wall element (fig. 4). The tip of the anchoring element has a larger radial distance from the tube axis than the terminal wall elements **106b-d**. The curve of the anchoring element is v-shaped and has at least 3 anchoring elements (fig. 4). The curve tip has a radiopaque region **900**. The curved anchoring element is bent outward in a curved shape in the direction of its tip (fig. 4).

4. Claims **1, 3** are rejected under 35 U.S.C. 102(b) as being anticipated by Boatman et al. (U.S. P.G. Pub. No.: 2001/0027339).

5. Boatman discloses a stent with a tubular wall with wall segments and flexible curved anchoring element **63** that is integrally connected with at least two wall segments and bridges at least one wall element (fig. 1). The anchoring element has a larger thickness than the wall elements (fig. 1).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims **9-11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Duerig et al. (U.S. P.G. Pub. No.: 2002/0138135) as applied above, in view of Bailey et al. (U.S. P.G. Pub. No.: 2001/0021872).

8. Mathis is explained supra. However, Mathis does not disclose radiopaque walls segments, both ends being flared, or expansion of the tubular axis beginning at least two annular wall segments before the end. Bailey teaches a stent with flared ends on both sides, the flare beginning two annular segments from the end (fig. 1). Bailey further discloses radiopaque markers on the stent body (para 55). Therefore it would have been obvious to one of ordinary skill in the art to modify the stent of Mathis to include flaring on both ends for the purpose of anchoring both ends of the prosthesis within a body lumen. Furthermore, it would have been obvious to include radiopaque markers on the stent body for the purpose of providing greater visualization to ensure proper placement of the implant. It would have further been obvious to include a taper that originates two annular members in from the end for the purpose of creating a gradual inner lumen surface profile change to prevent irregular blood flow within the lumen.

9. Claim **12** is rejected under 35 U.S.C. 103(a) as being unpatentable over Duerig et al. (U.S. P.G. Pub. No.: 2002/0138135) as applied above, in view of Klein (U.S. Pat. No. 5593442).

10. Mathis is explained supra. However, Mathis does not disclose connecting each link in an embodiment with anchor elements that bridge at least one wall element. Klein teaches a stent with every wall element connected except the end elements, with the end elements bridging at least one wall element (fig. 5). Therefore it would have been obvious to one of ordinary skill in the art to modify the stent of Mathis to include every body link being connected as taught by Klein for the purpose of creating a stronger stent body.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suba Ganesan whose telephone number is 571-272-3243. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3738

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

5/11/2007

  
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